

3:09-cv-203
(3:07-cr-234)

JOSE JESUS ORTIZ-NUNEZ,

Petitioner,

V.

UNITED STATES OF AMERICA

Respondent.

ORDER

THIS MATTER comes before the Court upon Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence, (Doc. No. 1), the Government’s Answer, (Doc. No. 3), and the Petitioner’s Memorandum, (Doc. No. 5).

After careful review of the pleadings, the Court has determined that an evidentiary hearing is necessary to resolve Petitioner's claim that his attorney refused to file an appeal.

Rule 8(c) of the Rules Governing Section 2255 Proceedings requires the appointment of counsel for such a hearing if the petitioner qualifies under 18 U.S.C. § 3006A. Petitioner previously qualified for appointed counsel in the underlying criminal case (Case No. 3:07-cr-234), and the Court is not aware of any change in Petitioner's financial status. Accordingly, the Court finds that the defendant qualifies for appointed counsel in this matter.

IT IS, THEREFORE, ORDERED that:

1. an evidentiary hearing regarding Petitioner's claim that his attorney refused to file an appeal is scheduled for Thursday, July 1, 2010, at 10:45 a.m. in Courtroom Two of the United States Courthouse in Charlotte, North Carolina; and

2. the Community Defender shall designate counsel promptly to represent Petitioner on the limited issue at the evidentiary hearing.

The Clerk is directed to certify copies of this Order to Petitioner, the Community Defender, the United States Attorney, and the United States Marshals Service.

Signed: June 14, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

